

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #9	CCRB Case #: 201608480	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 09/30/2016 5:00 PM	Location of Incident: Central Avenue and Mott Avenue	Precinct: 101	18 Mo. SOL 3/30/2018	EO SOL 3/30/2018	
Date/Time CV Reported Fri, 09/30/2016 10:35 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/06/2016 12:53 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Shaun Healy	14104	950577	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Joseph Cappelmann	00000	930400	101 PCT
2. POM William Bloodnick	17318	958316	101 PCT
3. POM Michael Wigdzinski	30021	951438	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Shaun Healy	Discourtesy: Police Officer Shaun Healy spoke discourteously to § 87(2)(b)	
B.POM Shaun Healy	Force: Police Officer Shaun Healy used physical force against § 87(2)(b)	

### Case Summary

On September 30, 2016, at approximately 5:00 p.m., near the intersection of Mott Avenue and Central Avenue in Queens, § 87(2)(b) was allegedly struck by a vehicle, in which § 87(2)(b) and § 87(2)(b) § 87(2)(b) were the occupants. § 87(2)(b) called 911. First to arrive after he did so were EMTs § 87(2)(b) and § 87(2)(b) who began to treat § 87(2)(b) in their ambulance. Shortly afterwards, Police Officers Shaun Healy, Michael Widgzinski, and William Bloodnick, as well as Lt. Joseph Cappelman, all of the 101<sup>st</sup> Precinct, arrived on scene. Lt. Cappelman, and then PO Healy briefly spoke with § 87(2)(b) in the ambulance. While PO Healy was speaking with § 87(2)(b) he used the phrase “full of shit” (**Allegation A**). § 87(2)(b) then left the ambulance, and walked towards Lt. Cappelman, whose back was turned towards him, with his arms raised. PO Healy then pushed § 87(2)(b) against the wall of a nearby building, away from Lt. Cappelman (**Allegation B**). He then ordered § 87(2)(b) back into the ambulance. § 87(2)(b) was then taken by the EMTs to § 87(2)(b), where he was treated for minor pain to his left hand (Privileged Documents, Board Review 1).

§ 87(2)(b) was not arrested or issued a summons as a result of this incident.

There was no video footage available for this incident.

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation, § 87(2)(b).
- On December 20, 2016, a FOIL request submitted to the New York City comptroller’s office confirmed that § 87(2)(b) has not filed a notice of claim in regards to this incident (Board Review 2).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 4).
- PO Healy has been a member of service for five years. Four prior CCRB complaints, with six previous allegations, have been filed against him. CCRB cases 201307726 and 201501088 involved force allegations, which were closed, respectively, as complainant uncooperative and exonerated. Case 201408619 included a discourtesy allegation which was closed as complainant uncooperative (Board Review 5).
  - § 87(2)(g)

### Findings and Recommendations

#### **Allegation A -Discourtesy: PO Shaun Healy spoke discourteously to § 87(2)(b)**

It is undisputed that after the accident, § 87(2)(b) called 911, and EMS arrived on scene. § 87(2)(b) was seen in the ambulance by EMT § 87(2)(b). It is undisputed that when § 87(2)(b) was being evaluated by EMT § 87(2)(b) Lt. Cappelman, PO Bloodnick, PO Healy, and PO Widgzinski arrived on scene. It is undisputed that after all of the officers arrived on scene, PO Healy spoke with § 87(2)(b) in the ambulance. During this conversation, he used the phrase “full of shit.”

§ 87(2)(b) stated that he was struck by a vehicle, and then called 911, because he had sustained an injury to his left hand. EMS arrived, and then evaluated him in their ambulance. As they did, officers arrived on scene. § 87(2)(b) first spoke briefly to PO Healy, who then left the ambulance. When he came back, he stated to § 87(2)(b) “You are full of shit,” and then walked away from the ambulance (Board Review 6).

PO Healy stated he arrived on scene after EMS, and after Lt. Cappelman and PO Bloodnick arrived on scene. He spoke briefly with several people on scene, who preferred to remain anonymous, who stated that § 87(2)(b) had not been struck by a vehicle. PO Healy then approached the ambulance to take § 87(2)(b)'s statement about the incident. He stated that while he was talking to § 87(2)(b), § 87(2)(b) stated that his neck was beginning to hurt. The EMT then told § 87(2)(b) that § 87(2)(b) should have reported this injury to EMS when they arrived, and not waited until police questioning. PO Healy then said to § 87(2)(b) “Come on, man. If you’re full of shit, just let us know.” He described this statement as a “slip,” and stated that he believed that he had collected enough information to suggest that § 87(2)(b)'s story was fabricated (Board Review 7).

No one else present testified to witnessing this allegation, nor the content of the conversation that preceded it (Board Reviews 8, 9, 10 and 11).

Patrol Guide Procedure 203-09 requires officers to be “respectful and courteous” towards members of the public (Board Review 12).

PO Healy, by his own admission, used the phrase, “full of shit,” towards § 87(2)(b). He claimed that the phrase came up in conversation as a “slip,” § 87(2)(g)

§ 87(2)(g)

**Allegation B: Police Officer Shaun Healy used physical force against § 87(2)(b)**

It is undisputed that after § 87(2)(b) and PO Healy spoke in the ambulance, PO Healy left the ambulance, and walked towards Lt. Cappelman, who was on the sidewalk, several feet from the ambulance. It is undisputed that § 87(2)(b) followed PO Healy out of the ambulance, because he wanted to talk to Lt. Cappelman about the conversation that he and PO Healy had in the ambulance. It is undisputed that § 87(2)(b) came within two feet of Lt. Cappelman. It is undisputed that when § 87(2)(b) approached Lt. Cappelman, he was gesticulating emphatically with his arms, and he was angry. It is undisputed that PO Healy pushed § 87(2)(b) against the wall of the Queens Library, ordered him not to touch Lt. Cappelman, and told him to return to the ambulance.

§ 87(2)(b) stated that he was angry after PO Healy said that he was, “full of shit,” so he left the ambulance to speak to Lt. Cappelman about PO Healy’s behavior. He stated that he was gesticulating with his arms, and speaking quickly, because he was angry that PO Healy did not believe him. PO Healy then pushed § 87(2)(b) after § 87(2)(b) came within several inches of Lt. Cappelman, against the wall of the library, which was several feet away from where § 87(2)(b) had been standing on the sidewalk (Board Review 6).

PO Healy corroborated that § 87(2)(b) left the ambulance. He stated that § 87(2)(b) was angry and waving his arms, and that he approached Lt. Cappelman and very lightly shoved

him. Lt. Cappelman stated that § 87(2)(b) came towards him, and reached within two to three feet of him before PO Healy restrained him. Both officers stated that PO Healy pushed § 87(2)(b) against the wall (Board Reviews 7 and 8). PO Healy stated that he did so because § 87(2)(b) was becoming more aggressive.

All other parties present on scene saw § 87(2)(b) leave the ambulance, but did not see what happened after he left the ambulance. The EMTs did not observe any additional injuries on § 87(2)(b) when he returned to the ambulance, after having left (Board Review 9 and 10).

§ 87(2)(b)'s medical records reflect that his chief complaint was a bruise on his left middle finger, for which he was treated at § 87(2)(b).

He visited clinics at § 87(2)(b) for complaints of different kinds of pain on his left side—sustained as a result of this incident—four subsequent times, in October, and once in November. He did not mention police contact during any of the times he was seen in October. The first time he alleged to medical personnel that police slammed him against a wall was during a clinic visit that occurred on § 87(2)(b), over one month after the incident, and after he filed a complaint against PO Healy to the CCRB. Before that visit, he attributed the pain on his left side to the car accident (Privileged Documents, Board Review 1). In § 87(2)(b)'s IAB call, he stated that he was treated initially for a lumbar strain and bruised hand that arose from the car accident (Board Review 13).

Patrol Guide Procedure 220-01 allows officers to use objectively reasonable force in the service of removing any threat or perceived threat to a member of service (Board Review 14).

By § 87(2)(b)'s own testimony, he left the ambulance in which he was being evaluated because he appeared angry, walked to within several inches of Lt. Cappelman, and was motioning with his hands, which were held approximately one foot from his body. § 87(2)(g)

PO Healy then pushed § 87(2)(b) against the wall of the library once, away from Lt. Cappelman.

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Squad #9

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_

Title/Signature

Print

Date